

(2025) 03 SIK CK 0704

In the Sikkim High Court

Case No : I.A. No. 01 Of 2024 In Motor Accident Claim Appeal 129 Of 2024
(Filing No.)

Branch Manager, HDFC ERGO General Insurance Company
Limited

APPELLANT

Vs

Dhan Kumari Rai And Others

RESPONDENT

Date of Decision : 07-03-2025

Acts Referred:

Motor Vehicles Act, 1988 & Section 173(1)

Citation : (2025) 03 SIK CK 0704

Hon'ble Judges : Meenakshi Madan Rai, J

Bench : Single Bench

Advocate : Rahul Rathi, Tarun Choudhary, Kumar Sharma

Judgement

Meenakshi Madan Rai, J

None appears for Respondent No.5.

Records reveal that the Notice issued to Respondent No.5 has been "delivered".

The records of the Learned Motor Accidents Claims Tribunal, at Namchi, Sikkim (hereinafter, the "MACT"), with regard to MACT Case No.01 of 2020 and MACT (Execution) Case No.02 of 2023 have been received from the concerned Learned MACT.

The challenge in the Appeal by Learned Counsel for the Applicant is that the Applicant-Company has no liability in the instant matter.

I.A. No.01 of 2024 is an application under Section 173(1) of the Motor Vehicles Act, 1988, filed by the Applicant seeking condonation of 370 days' delay in filing the instant Appeal.

I have perused the Orders of the Learned MACT in MACT (Execution) Case No.02 of 2023. The Orders reveal that the Judgment Debtor was absent throughout the proceedings and in fact Notice was never served upon the Judgment Debtor and

the Learned MACT proceeded to attach a sum of ₹ 42,61,437/- (Rupees forty two lakhs, sixty one thousand, four hundred and thirty seven) only, from the HDFC account of the Judgment Debtor without service of Notice. It is admitted by Learned Counsel for the Respondents No.1 to 3 that although the Counsel for the Applicant-Company had in fact entered appearance before the Learned MACT but the same was not recorded in the Orders of the Learned MACT. Having considered the submissions, it is evident that this Court can rely only on the written Orders of the Learned MACT and not what transpired before it when the same have not been recorded in the Orders of the Learned MACT. In light of the above circumstances, the I.A. supra seeking condonation of delay is required to be heard.

Counsel for the Respondent No.4 verbally seeks time for the same.

Considered.

List on 17-04-2025, as found convenient by the parties.